

MINUTES
SCOTTSDALE CITY COUNCIL
CITY COUNCIL MEETING
Monday, July 1, 2002

**The Kiva
City Hall
Scottsdale, Arizona**

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CALL TO ORDER (IN CITY HALL KIVA FORUM)

Mayor Manross called to order the Regular Meeting of the Scottsdale City Council on Monday, July 1, 2002 in the Kiva, City Hall, at 5:03 P.M.

ROLL CALL

Present: Mayor Mary Manross
Vice Mayor David Ortega
Council Members Ned O'Hearn, Tom Silverman, Robert Littlefield, Wayne Ecton, and Cynthia Lukas

Also Present: City Manager Jan Dolan
City Attorney David Pennartz
City Clerk Sonia Robertson

INFORMATION UPDATES

Scottsdale Airport Flight Mitigation Plan

Scott Gray, Aviation Director, explained that the update is a follow-up to the June 4, 2002 meeting in which issues were discussed regarding air traffic around the Scottsdale Airport. His presentation and comments are outlined below.

Air Traffic Issues

Areas of Concentration

Area 1 – East of Airport

Area 2 – Northeast of Airport

Area 3 – North of Airport

Current Discussion Topics

Altitude Adjustments

Procedural Modifications

Traffic Reduction – Routing modifications

These discussions have been going on between the FAA and staff for the last few weeks to obtain some additional technical data. Staff will be meeting with the entire City team including Mayor Manross and Councilman Littlefield and the FAA this week to express concerns over the areas of change since NW2000 was implemented. There are different options available for each one of the areas. Mr. Gray cautioned that by creating a change in any one of the areas may result in the “domino” effect resulting in a significant issue in another area.

Longer Term Strategies

Regional Airspace Re-design

High-Tech Pilot Education

Procedures: RNAV and Charted Visual Approaches (This is a 6-12 month process.)

City Attorney Pennartz explained that Councilman Littlefield requested additional information with respect to the advice of the law firm in Denver, which was hired by the City as expert aviation counsel.

The decision to implement the NW2000 Plan is considered to be a Federal decision that potentially triggers the requirements for environmental review. As aviation counsel has explained to the Council and staff, challenges to the FAA environmental approvals are only rarely successful. In fact, the FAA's track record is quite extraordinary. Counsel indicated that they are not aware of a single successful lawsuit against the FAA in the DC circuit where these type of challenges must be filed. Counsel saw no reason to believe that the court would rule against the FAA regarding the challenges to the implementation of the NW2000 Plan.

The National Environmental Policy Act is basically a procedural statute. It requires an environmental review process be undertaken by a Federal agency before final decision is made on a proposed action. There are two types of challenges to the decision. The first type of challenge would be a procedural challenge. A procedural challenge would have the greatest chance of success and would have to be based on an allegation that the Federal agency didn't follow the required process. In implementing the NW2000 Plan, the FAA followed the process by publishing notices, receiving comments, considering the issues, and making their decision after the review process. The second type of challenge is a challenge to the substance of the decision. Here the standards are quite high since it is the Federal agency's decision to make; not a matter for the courts to decide.

In response to questions from Councilman O'Hearn, Mr. Gray explained that the City's team would be meeting with the FAA this Wednesday morning. The FAA has acknowledged several of the issues already on a technical level. Staff have had numerous conversations with the FAA regarding some of the issues. The meeting on Wednesday will allow the City Council to directly express their concerns to the FAA Manager.

The FAA has not acknowledged that there is a significant noise issue. They acknowledged that there are some technical issues that they agree may need to be modified. From a noise standpoint, based on Federal criteria, there is no noise impact. He explained that there are some over flight issues. From a citizen perspective, the over flight issues are related to the noise issue.

Councilman O'Hearn explained that he wanted to ensure that although the City is addressing the issues on a technical basis, the City is ultimately addressing the concerns of the citizens.

Mayor Manross explained she would be at the meeting along with Councilman Littlefield to represent the citizens. Mr. Gray will be addressing technical solutions to help alleviate some of the adverse impacts of the NW2000 Plan implementation.

Councilman Littlefield asked Attorney Pennartz if he felt it was fair to say that the expert legal advice obtained by the City recommended that the City should not join the Quiet Skies' lawsuit. Attorney Pennartz confirmed that the firm did not see a likelihood of success for the lawsuit.

Update on Senate Bill 1354 regarding development rights, procedures

City Attorney Pennartz presented a brief presentation. His presentation and comments are outlined below.

Purpose

- Provide Overview of SB 1354
- Identify Areas of City Council Discretion
- Identify Options for City response
- Solicit Council Direction on Next Steps

Background

- Common law vested rights – Since 1950's
 - 1994 Arizona Legislation – Authorizes cities to grant protected development rights
 - 2002 – Arizona Legislature passes SB 1354 amending 1994 legislation; mandates protected development right status for certain developments

He explained that the definition of vested rights essentially means that someone has received development approvals, pulled permits, and actually commenced construction of a project. If they are substantially underway on the project, the Arizona Court law, since 1954, has recognized the right of that person to finish the development without a change in which they received their approval. In order to receive vested rights, all final approvals are required to have been obtained along with a substantial amount of construction to have taken place. For a number of years, developers have sought greater protection through legislation.

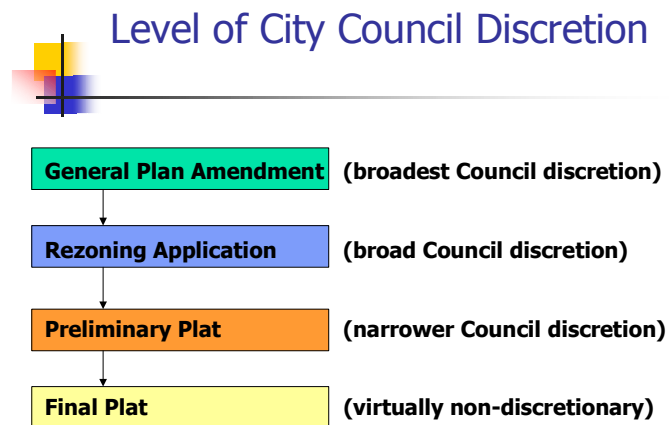
In 1994, the first version of the Protected Rights Legislation was passed in Arizona. It provided some of the same things that the current bill provides. If a development received protected development rights status, the property owners would have from 3-5 years depending on the type of property to develop the property pursuant to the plan before subsequently enacted zoning regulations might apply. Cities and towns had the option to implement it in the community or not. The City of Scottsdale never exercised that optional authority. In fact, it was not widely used throughout the state.

Overview of SB 1354 (mandated what was optional before)

- Purpose: Gives property owner the ability to identify a site development plan as a “protected development rights” (PDR) plan during the application process
- Key Aspects:
 - PDR plans are:
 - Site-plan specific
 - Only approved by City Council
 - Subject to City Council stipulations
 - Approved PDR plans are protected from future changes in city regulations
 - 3-year protection for “non-phased” development
 - 5-year protection for “phased” development

Overview of SB 1354

- “Phased” development plan shall be in the form of a master-planned development; “non-phased” development shall be detailed to level of building permit.
- Final subdivision plats that meet minimum statutory requirements are automatically PDR plans.
- Cities are allowed to require additional information for submittal or approval of PDR plans.
- Only matters specified in PDR plan are protected
- Development must conform to approved plan or City Council can revoke prior to expiration
- For Scottsdale, law becomes effective on August 22, 2002



Areas of City Council Discretion

Definitions, requirements for “phased” development
Submittal, approval requirements for PDR plans
Minimum acreage, traffic reports, assurance of construction, etc.?
Citizen Review Process requirements
Additional level of citizen review for plats?
Notice and Hearing requirements
Revocation procedures
When and how can PDR plans be revoked?
Define who will interpret terms, determine conformity
Zoning administrator, City Council, or other?

City Council Options

- Take no special action regarding new legislation and respond to each PDR application on a case-by-case basis.
- Adopt Ordinance and/or amend existing Ordinances to include PDR plan processes and requirements.
- Adopt Resolution addressing PDR plan process and requirements.

Next Steps

■ If directed by City Council, prepare Ordinance or Resolution for action by Council at the August 26/27 meeting. Staff could bring forward a resolution setting some interim requirements that Council could adopt shortly after Council's break so the requirements would be in place for any applications that are filed. If Council later believes that a text amendment is necessary, one could be initiated.

Mayor Manross questioned if the City would need to amend ordinances. Attorney Pennartz explained that the Council would not have to amend ordinances except that the City is dealing with the development process and requirements for development which are currently in the zoning ordinances. Thus, a change by text amendment would be consistent. The Protected Development Rights Statute specifically allows the City to set the definitions by resolution instead of ordinances if Council so desires.

Councilman O'Hearn expressed concern regarding the August 22, 2002 effective date. He stated that although he appreciates that staff compiled the information on short notice, Council must keep in mind that this bill is a developer-sponsored bill. In response to a request from Councilman O'Hearn, Attorney Pennartz advised that the issue would be considered a "medium" priority for Council to take action. He stated his belief that Council is likely to see few non-phased applications initially since the requirements are no less than providing all the information to acquire a building permit. This is even more information than the City's current procedure for similar applications requires. The phased developments are likely to be the larger master planned communities. If Council adopts a minimum acreage requirement, it would further restrict the applications since the City isn't expecting a large number of applications for development of vast acreage in the near future.

Councilman O'Hearn recommended that staff move forward with a resolution that would respond to the issues created by the new bill.

Mayor Manross agreed that a resolution should be brought forward for consideration. She pointed out that the City combined efforts with many cities to oppose the bill when it was introduced to the legislature and worked to modify the bill once it had gained enough support to pass into law.

BOARDS, COMMISSIONS & TASK FORCES

Human Services Commission (3)

Vice Mayor Ortega explained the purpose of the Human Services Commission and noted that no special qualifications are needed for the open positions.

Vice Mayor Ortega opened the floor for nominations.

Councilwoman Lukas nominated Seymour Rasnick
Mayor Manross nominated John Bitenc
Councilman Ecton nominated Dave Bachmann

Vice Mayor Ortega closed the floor for nominations.

Dave Bachmann and Seymour Rasnick were appointed to the Human Services Commission by a majority vote. **John Bitenc** was reappointed to the Human Services Commission by a majority vote.

Scottsdale Pride (2)

Vice Mayor Ortega explained the purpose of the Scottsdale Pride Commission and noted that no special qualifications are needed for the open positions.

Vice Mayor Ortega opened the floor for nominations.

Mayor Manross nominated Richard Gayle
Councilwoman Lukas nominated Dominick Spatafora

Vice Mayor Ortega closed the floor for nominations.

Richard Gayle and **Dominick Spatafora** were appointed to the Scottsdale Pride Committee by a majority vote.

Transportation Commission (1)

Vice Mayor Ortega explained the purpose of the Transportation Commission and noted that no special qualifications are needed for the open position.

Vice Mayor Ortega opened the floor for nominations.

Vice Mayor Ortega nominated Vivian Johnson

Vice Mayor Ortega closed the floor for nominations.

Vivian Johnson was reappointed to the Transportation Commission by unanimous vote.

PUBLIC COMMENT

Lynne Lagarde, 3101 N. Central Avenue, Ste. 1000, spoke on behalf of her client, Ron Burke, regarding inaccuracies portrayed concerning the Pueblo Poquito project located at 123rd Street and Mountain View. She explained that her client acquired additional parcels to complete the Pueblo Poquito development. Mr. Burke has been developing challenging parcels for people who want single family homes in a planned subdivision. She noted that a neighbor has had an issue regarding access to the subdivision. At the time the subdivision plat was completed, the developer contacted the neighbor in an attempt to purchase part of his property to construct a private street. If the land wasn't available, the road would have to be a public road that would use part of the GLO easement. Mr. Burke even offered to include the easement into the abandonment so the neighbor could acquire part of his property back. She pointed out various correspondence between her firm and the adjacent neighbor. She explained that the cul-de-sac on the site plan impacts the GLO easement on the neighbor's property. The developer has revised the site plan so it would have less of an impact on the GLO easement. She noted that they would continue to try to resolve this issue in the best way for everyone involved.

Consent Agenda (Items 1 - 17)

1. Action:

This Action Supports City Council Broad Goal B- Preserve the Character and Environment of Scottsdale:

Adopt Res. No. 6113 authorizing purchase in the amount of \$205,300 for the 5.007-acre Parcel No. 216-59-004E, located at 30550 N. 130th Street, for the McDowell Sonoran Preserve

Staff Contact:

Don Meserve, Preservation Planner, 480-312-2523 (dmeserve@ci.scottsdale.az.us)

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, predicted that with the recent economic downfall, the City would continue experiencing some rough times with sales tax revenues declining. He expressed concern that the City continues to purchase more land while tax revenues are drastically declining. He stated his belief that land prices are inflated by the first purchases of preserve land bought from City Hall insiders. He explained that the City now has revenue bonds in place that were initially authorized to be paid only if enough sales taxes were collected. He stated his belief that the City is secretly allowing the use of General Obligation Bonds that can assess taxes on property if the sales tax revenue is inadequate. In view of the recently raised property values, citizens can count on their taxes increasing. He requested an update on the cost to the City for interest and debt amortization with a breakdown of the portion based on land purchases. He requested a quarter-by-quarter comparison of sales tax receipts since last June 30th. He also requested an explanation regarding a recent Tribune article stating that the general fund would be hit for substantial amounts. He questioned if this amount is due to the litigation the City is involved with to acquire preserve land.

Mayor Manross closed public testimony.

Bob Cafarella, Preservation, explained that there is no funding originating from the general fund to support mountain acquisitions. The .2% sales tax that was approved in 1995 is adequate for the acquisition before Council tonight. Currently, the sales tax provides more funds each fiscal year than the overall bonding obligations that the City has. The City is still running an annual surplus and expects this trend to continue. The City does not anticipate using general property tax to pay off the bonds.

COUNCILWOMAN LUKAS MOVED TO ADOPT RESOLUTION NO. 6113 AUTHORIZING A PURCHASE IN THE AMOUNT OF \$205,300 FOR THE 5.007-ACRE PARCEL NO. 216-59-004E, LOCATED AT 30550 N. 130TH STREET, FOR THE MCDOWELL SONORAN PRESERVE. VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

2. Action:

CONSIDER ADOPTION of Resolution No. 6114 authorizing the sale of a City-owned residential property at 6838 N. Rocking Road to the highest bidder, Tracy Wareing, for \$445,000 subject to the reservation of 15 feet of Right of

Way (ROW) for Indian Bend Road and the imposition of additional residential restrictions in favor of the property owners in the Ride-N-Rock subdivision.

Staff Contact:

Ron King, Asset Management Coordinator, 480-312-7042, rking@ci.scottsdale.az.us

Mayor Manross opened public testimony.

Larry Beckner, 6712 N. Rocking Road, expressed appreciation on behalf of his neighborhood for Council's support. He noted that the process has been long to get to this point (the sale of the City owned property). He explained that an auction has taken place with a significant level of interest in the property. The top bid for the property was very gratifying for the neighborhood since it supported the neighbor's opinion that the development is unique and worth preserving. He urged Council's support of the resolution to accept the purchase.

Mayor Manross closed public testimony.

COUNCILWOMAN LUKAS MOVED TO ADOPT OF RESOLUTION NO. 6114 AUTHORIZING THE SALE OF A CITY-OWNED RESIDENTIAL PROPERTY AT 6838 N. ROCKING ROAD TO THE HIGHEST BIDDER, TRACY WAREING, FOR \$445,000 SUBJECT TO THE RESERVATION OF 15 FEET OF RIGHT OF WAY (ROW) FOR INDIAN BEND ROAD AND THE IMPOSITION OF ADDITIONAL RESIDENTIAL RESTRICTIONS IN FAVOR OF THE PROPERTY OWNERS IN THE RIDE-N-ROCK SUBDIVISION. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

3. Action:

ADOPT Resolution No. 6118 authorizing the sale of vacant, surplus City owned property on the east side of 84th Street approximately 500 feet south of Indian Bend Road to the adjacent property owner Jeffrey Walter Allen for the appraised value of \$38,400.

Staff Contact:

Ron King, Asset Management Coordinator, 480-312-7042, rking@ci.scottsdale.az.us

4. Action:

AUTHORIZE Construction Bid Award No. 01IB062 to construct 700 feet of 15-inch sewer pipe in Scottsdale Road south of Highland Avenue to Archon, Inc., the lowest responsive bidder, at the lump sum price of \$216,000.00.

Staff Contacts:

Chuck Henne, Project Manager, (480) 312-7097, chenne@ci.scottsdale.az.us

Greg Crossman, Sr. Water Resources Engineer, (480) 312-5319, gcrossman@ci.scottsdale.az.us

5. Action:

AUTHORIZE Construction Bid Award No. 02PB086 for the construction of the Hayden Road Water Distribution System Improvements to Pueblo West Contracting, LLC, the lowest responsive bidder, at their Unit Price Bid of \$282,196.00.

Staff Contact: Alison Boldt, Project Mgr, (480) 312-7985, aboldt@ci.scottsdale.az.us

6. REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 13

7. REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 13

8. Action:

AUTHORIZE Engineering Services Contract 2002-073-COS with HDR Engineering, Inc. in the total amount of \$197,793.00 for the concept design of the Chaparral Water Treatment Plant Influent and Distribution Waterlines, and the associated CAP Water Distribution Line.

Staff Contact:

Doreen Song, Project Manager, 480 312 2367, dsong@ci.scottsdale.az.us

9. Action:

AUTHORIZE Construction Award No.02PB118 for the construction of Fire Station 13 additions and renovations to Mikco Contracting, the lowest responsive bidder, at their Lump Sum Bid of \$49,900.00.

Staff Contact:

Daniel Walsh, Project Manager, (480) 312-5248, dwalsh@ci.scottsdale.az.us.

Marc Eisen, Emergency Services Director, (480) 312-7999, meisen@ci.scottsdale.az.us

10. Action:

AUTHORIZE Construction Bid Award No. 02PB129 for the construction of Fire Stations 17 and 18 to The Renaissance Companies, the lowest responsive bidder, at their Lump Sum Bid of \$1,283,000.00.

Staff Contacts:

Daniel Walsh, Project Manager, (480) 312-5248, dwalsh@ci.scottsdale.az.us.

Marc Eisen, Emergency Services Director, (480) 312-7999, meisen@ci.scottsdale.az.us

11. Action:

It is recommended that the City Council:

1. **ADOPT RESOLUTION No. 6097**, authorizing the City of Scottsdale to accept a Department of Justice Domestic Preparedness Equipment Grant to purchase equipment and technology to upgrade the City's ability to respond in a coordinated effort with other Valley cities to any incidents involving the use of hazardous materials.
2. **AUTHORIZE** the acceptance of the grant award by the Bureau of Justice Assistance, Department of Justice, resulting in a total grant amount of \$50,000; and
3. **AUTHORIZE** the establishment of Grant No. 2002-TE-CX-0051 for the purpose of receiving the grant funding.

Staff Contact: Police Chief Douglas L. Bartosh (480) 312-5310

12. Action:

ADOPT Resolution No. 6116 Authorizing Agreement No. 2002-103-COS for the purchase of 25 feet of permanent Right of Way (ROW) and an adjacent 10 foot wide temporary construction easement (TCE) needed for the widening of Scottsdale Road at the Southwest Corner of Doubletree Ranch Road and Scottsdale Road from Wendell C. Cannon and Susan L. Cannon (Cannon's) for \$176,152.

Staff Contact and Extension:

Al Dreska, Municipal Services General Manager, 480-312-5555, adreska@ci.scottsdale.az.us

13. Action:

Adopt Resolution No. 6094 authorizing purchase of excess municipal liability insurance (general liability, vehicle liability and public officials errors and omissions coverage) for the period 7/1/02 – 7/1/03 from participating insurers, led by primary excess insurer, AIG Companies, for \$ 642,000.

Staff Contact:

Myron Kuklok, Risk Management Director, 312-7841, mkuklok@ci.scottsdale.az.us

14. Action:

Adopt Resolution No. 6092 authorizing purchase of property insurance (buildings and contents) for the period 7/1/02 – 7/1/03 from the St. Paul Insurance Companies, for \$704,000.

Staff Contact:

Myron J. Kuklok, Risk Management Director, (480) 312-7841, mkuklok@ci.scottsdale.az.us

15. Action:

Adopt Ordinance No. 3450 repealing Division 7 of Chapter 2 of the Scottsdale Revised Code, which established the Scottsdale Endowment Advisory Board.

Adopt Resolution No. 6112, authorizing Field of Interest Agreements with the Arizona Community Foundation for the Herbert R. Drinkwater Youth Services Fund, the Scottsdale Employee Endowment Fund and the Rassner Memorial Scottsdale Library Endowment (Amended and Restated) and establishing grant distribution advisory roles for the respective funds.

Staff Contact:

Neal Shearer
HRS General Manager

Joe Kisler, CPA
HRS Department Advisor
480-312-2431
jkisler@ci.scottsdale.az.us

nshearer@ci.scottsdale.az.us

Mayor Manross explained that the members of the Endowment Advisory Board recently voted to sunset the board and transfer the funds that were left to the Arizona Community Foundation to be administered. Mayor Manross thanked board members for their work on behalf of the community.

16. REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION. SEE PAGE 14

17. Action:

Adopt Resolution No. 6123, and

Authorize Intergovernmental Agreement No. 2002-109 -COS between the City of Scottsdale, Maricopa County, and the Town of Cave Creek to design and construct a traffic signal at the intersection of 56th Street and Carefree Highway.

Purpose:

To improve the safety and efficiency of the intersection located at 56th Street and Carefree Highway, and determine who will pay for the improvements and maintenance of the traffic signal.

Key Considerations:

- Define the responsibility of each party in these improvements.
- Define the cost sharing mechanism to fund the project.
- Define the operation and maintenance of the new signal.
- Address the annexation of the county strip of right-of-way.

Staff Contact:

George Williams, Traffic Engineering, 480-312-7623, gwilliams2@ci.scottsdale.az.us

VICE MAYOR ORTEGA MOVED TO APPROVE CONSENT ITEMS 3-5, 8-15, AND 17. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

ITEMS REMOVED FROM CONSENT AGENDA FOR SEPARATE DISCUSSION

6. Action:

AUTHORIZE Engineering Services Contract No. 2002-101-COS with Dibble & Associates Consulting Engineers in the amount of \$136,700.00 to provide for the design of the Pima Road Buffering Wall and Shea Boulevard Multiuse Path with pedestrian enhancements.

Purpose:

This contract will prepare construction documents for the Pima Road Buffering Wall with Multiuse Path from Inner Circle to 700 feet south of Via de Ventura and a Multiuse Path with pedestrian enhancements along the south side of Shea Boulevard between 136th Street and 142nd Street.

Staff Contact: Mark Urbanek, Project Mgr, 480-312-2563, murbanek@ci.scottsdale.az.us

Councilman Ecton explained that he toured the Pima Road buffering walls with Mr. Dreska. He stated his support of what the City has done to reduce the noise along the corridor. The wall that is going to be constructed will look very similar to the other walls and will be set back about 20' from the back of the curb. Most of the property owners along the road have shorter walls around their property. The new 8-10' wall will leave an opening between the two walls that the City will enclose while providing access areas for maintenance.

Councilman Ecton questioned the cost to the City on an annual basis to maintain the area and if the money is provided for in the current budget. Al Dreska, Municipal Services, explained that the project involves approximately 2 acres of land area. Landscape maintenance costs per City contract are 6 cents per square foot annually; thus, the impact would be approximately \$3,500 annually. The additional 2,000 linear feet of bike path constitutes another \$300-400 annual expense. Irrigation water would be an additional cost of approximately \$300-400 annually. The grand total maintenance impact of the Pima portion of the combined project would be approximately \$5,000 annually. The maintenance impact would be addressed through the upcoming budget cycle since the project is not scheduled to be completed until the beginning of the next fiscal year.

COUNCILMAN ECTON MOVED TO AUTHORIZE ENGINEERING SERVICES CONTRACT NO. 2002-101-COS WITH DIBBLE & ASSOCIATES CONSULTING ENGINEERS IN THE AMOUNT OF \$136,700.00 TO PROVIDE FOR THE DESIGN OF THE PIMA ROAD BUFFERING WALL AND SHEA BOULEVARD MULTIUSE PATH WITH PEDESTRIAN ENHANCEMENTS. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 7/0.

7. Action:

AUTHORIZE Architectural Services Contract No. 2002-095-COS with Jones Studio, Inc., in the amount of \$201,500 for master planning and programming for the Scottsdale Fleischer Museum at Marshall Way and First Street.

Purpose:

The City of Scottsdale contract will provide master planning and programming and alternatives for the Scottsdale Fleischer Museum in the Loloma Redevelopment Area. These tasks are targeted for completion by November, 2002. This contract contains a provision that permits a modification to acquire final design services from Jones Studio, subject to their successful completion of work under this contract and subject to City Council approval of this potential contract modification.

The contract between Arruth Associates, Inc. and Jones Studio, Inc. is proposed to provide master planning of an underground parking structure adjacent to the Scottsdale Fleischer Museum and determine utility improvements for the Loloma mixed used development project. The City, by acknowledging this contract, indicates Arruth Associates, Inc. is in compliance with Section 15 of the Loloma Redevelopment Agreement. This section requires a public selection process for all professional services procured by the developer that are eligible for eventual reimbursement or credit by the City.

Staff Contact:

Corey E. Lew, Project Manager, 480.312.7769, clew@ci.scottsdale.az.us

Councilman Ecton requested clarification on the information provided under key considerations regarding the \$300,000 operating costs deficit of the public art museum. Ms. Dolan explained that the information points out that when the project was first recommended to Council, there was \$3 million set aside for construction of the museum. This item speaks to the first step in the process which is to master plan the museum. At the same time, \$300,000 was authorized for operating cost deficits for the continued operation of the museum over a period of three years.

COUNCILMAN ECTON MOVED TO AUTHORIZE ARCHITECTURAL SERVICES CONTRACT NO. 2002-095-COS WITH JONES STUDIO, INC., IN THE AMOUNT OF \$201,500 FOR MASTER PLANNING AND PROGRAMMING FOR THE SCOTTSDALE FLEISCHER MUSEUM AT MARSHALL WAY AND FIRST STREET. COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

16. Action:

Authorize Engineering Services Contract No. 2002-036-COS with Carollo Engineers in the amount of \$198,211.00 for the establishment of a time-varying water quality simulation system, which will allow compliance with future federal regulations.

Purpose:

Authorization of this engineering services contract will provide the City of Scottsdale with a time varying or Extended Period Simulation (EPS) water quality computer model of the potable water distribution system. This capability will allow the City to evaluate the potential formation of disinfection by-products within the water distribution system, and to insure compliance with future federal regulations.

Staff Contact:

Scott L. Anderson, Water Resources Engineer, (480) 312-5693, scan@ci.scottsdale.az.us

Councilman Ecton questioned if staff meant “testing” in the backup documentation when the word “modeling” was used. Joe Gross, Municipal Services, explained that the contract consists of first formulating the model and then calibrating it, which could be called testing, to validate the findings of the model against actual samples taken in the field. Once the model is up and running, it will be used for operational purposes to ensure that the water distribution system doesn’t allow water in the pipeline to age to enhance the formation of byproducts.

Councilman Ecton asked if the City really needs the model, if a staff member in IS could complete the work, does it require outside expertise, and how soon is it really needed. Mr. Gross explained that the primary purpose of this model is to ensure that the City complies with upcoming Federal regulations from EPA that will change the way municipalities have to report disinfection byproducts in the water. The regulation is due out in the fall with the enforcement period of three years from that time. Currently, the City averages disinfection byproducts across the system. When the final regulation is applied, the City must report findings at specific locations throughout the system. In every case, the level of disinfection byproducts in drinking water must be below the 80 parts per billion.

It is not appropriate for IS personnel to formulate the model since it requires a detailed knowledge of water quality. The City does not have the specialized expertise on staff to bring the model up to speed by the required time.

Ms. Dolan explained that the City has the software but requires assistance of a technical water quality nature to build the database for the software. The reason the City is proceeding in advance of the regulations being enforced is so the City can run the model and make adjustments to the water system based on the model information. Thus, when the enforcement comes into effect, the City will be in compliance.

Councilman Ecton recapped that in essence, the City owns the software that has to be tweaked to meet the City’s needs. He stated his recollection that a Council member requested information on water projects a few months ago that Council has not yet received. He, once again, requested that all the water projects and costs be accumulated in one document so Council could review the projects as a whole rather than considering each individually without knowing how the project fits into the City’s plan. Assistant City Manager Roger Klingler stated that he would be happy to supply the requested information to Council and questioned if Council would like the information for the fiscal year or another point in the future. Councilman Ecton explained that although he isn’t sure what timeframe is necessarily appropriate, any water project the City knows will be forthcoming should be on the matrix.

Councilman Littlefield asked if the City has the expertise to program the software. Ms. Dolan explained that the City has the expertise to program the software; however, the project would pull staff off of other priority projects. By hiring outside contractors to complete this work, the project can be completed sooner and be more cost effective.

COUNCILWOMAN LUKAS MOVED TO AUTHORIZE ENGINEERING SERVICES CONTRACT NO. 2002-036-COS WITH CAROLLO ENGINEERS IN THE AMOUNT OF \$198,211.00 FOR THE ESTABLISHMENT OF A TIME-VARYING WATER QUALITY SIMULATION SYSTEM, WHICH WILL ALLOW COMPLIANCE WITH FUTURE FEDERAL REGULATIONS. VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

Regular Agenda (Items 18 - 24)

18. Action:

- 1. To discuss and provide direction on development of the City owned 13-acre site at the northwest corner of Granite Reef and McDowell Rds. (the former Smitty's site);**
- 2. To authorize the expenditure of \$ 65,000 from Center No. PO101 (Smitty's purchase account) to fund Phase III of the previously approved Architectural Services Contract No. 2002-017-COS with EDAW Inc. for the master-planning, financial feasibility analysis and engineering study.**

Purpose:

The purpose of this presentation and action is to hear a presentation from the masterplanning consulting team and to receive further direction from council on key development issues:

- a. land uses
- b. financial parameters
- c. development parameters.

If Council chooses a final selection based on options provided, then Council will also be asked to authorize the expenditure of \$65,000 of funds from Center No. PO101 (Smitty's purchase account) to allow the City's master-planning team to continue with Phase III of this Project. This Contract, in a total amount not to exceed \$200,000 was approved by Council on February 19, 2002. These funds for phase III are currently available in Account No. P0101. Council authorization will give approval to spend these funds on the continued master-planning effort, moving forward with the master-planning design, additional feasibility and engineering analysis and parameters for RFP's. However, if Council desires to study the options further, we would suggest delaying phase III until a final decision is reached.

Staff Contact:

Laurel Edgar, Revitalization Manager, Economic Vitality Department, 480-312-7313, ledgar@ci.scottsdale.az.us

Deputy City Manager Ed Gawf introduced item 18 and 19. His presentation and comments have been outlined below.

Tonight's Request

- Discuss and Provide staff direction on key development issues necessary to prepare Request for Proposal (RFP):
- Acceptable Development/Disposition Strategies (Parcel A – municipal uses; Parcel B – non-municipal uses)
- Any Land Use Restrictions
- Acceptable Return on Investment
- Authorize funding of Phase III of the Master-Planning Contract with EDAW in the amount of \$65,000 to provide Master Site Plan and Design Guidelines for both Developer RFP and Senior Center.

Laura Edgar, Economic Vitality, provided the following information. Starting with last year's purchase of the property, the City embarked on a discussion of the possible uses for the site. Last June, after substantial community input, it was determined that the senior center would either be relocated to the site

or an additional senior center would be built on the site. She noted that the community also desired a restaurant on the site. There were also requests by a number of non-profit and different community uses to be located on the site. Council directed staff to look at the different uses and provide additional information and recommendations about how the various uses would fit together. Staff spent months compiling the information along with an RFP to work with teams that could compile more specific market and development information for the site as well as information regarding the financial feasibility of the project.

Ms. Edgar introduced Jay Hicks and Bill Anderson as two of the team members who would be presenting information tonight. Ms. Edgar presented the following portion of the presentation.

Masterplan Effort, Phase I

Information Collection and Review Analysis

Review all gathered site information, potential users design, parking and activity information.

Analysis

Determine compatibility of uses, programming of the site and utilizing shared parking and open space.

Creation of Various Site Plan Scenarios

Preliminary land use plans with various mixes of uses

Masterplan Effort, Phase II

Engineering Study & Assessments

- Analysis and Preliminary costs for utilities for the combination of uses for each preliminary plan.

Financial Analysis of Design Options

- Preliminary Market and Financial analysis of the various approved uses for the site.
- Included scenarios with mixes of retail, office, housing, and non-profit uses.
- Report to Council information on Residual Value for mix of uses and recommend on how to proceed.

Refinement and Final Strategies

- Final scenarios with a combination of compatible and marketable uses with various levels of return.

Phase II, Public Outreach

• May 7, 2002 – Neighborhood meeting onsite

• 30 Attendees

• June 6, 2002 – Open House, Hohokam School

• 154 Attendees

• June 6, 2002 – El Dorado Park

• 75 Attendees

• Comments Included Support for: Senior Center, Mixed Uses, City Services, Neighborhood Retail, Multigen/Activity Center, 'Sit Down' Restaurant, Sensitive Design. Mixed response on School, Senior Housing and **Specific Non-Profits.**

End Product

RFP (September for both non-City uses and for architectural and engineering for senior center)

Design

Entitlements (Spring 2003)

Construction

Bill Anderson presented the following information.

Retail Market Considerations

- Traditional neighborhood anchors restricted
- \$12-16+/- strip retail rents; 91% occupancy rate
- Lack of traditional anchors make financing more difficult
- Non-traditional anchors support retail
- Market orientation & image affected by focus of non-retail development
- Major employer, surrounding residential, and McDowell traffic counts plus
- Family restaurant options - local, franchise, chain - location meets market criteria (traffic counts, population, income)
- Future opportunities/competition at Los Arcos could affect leasing

Retail Market Conclusions

- Limited potential and scope
- Good site, but competitive sites in area
- Low rents
- Opportunities -
 - Convenience retail and services
 - Possibly family restaurant

Medical Office Market Considerations

- Synergies with senior center and housing
- \$12-14+/- mostly older, class C buildings; occupancy 79%
- Difficult to support new construction at market rent levels
- Generally small units or buildings; larger buildings near hospitals
- Medical professionals have better choices
- Some interest in office condominium space

Office Market Conclusions

- Low rent market
- Phase office development
- Opportunities -
 - Second level office above retail for miscellaneous users - medical, non-profits, others
 - Medical office pad site for subsequent phase

Senior HH Characteristics Within 3-Miles

- 44% are family households (mostly married couple, no children at home)
- 53 % live alone
- 76% own and 24% rent

Senior Housing Developments

- 17 Developments in Scottsdale
 - 15 offer independent living
 - 5 offer assisted living
- 10 in South Scottsdale
 - 4 are tax credit or HUD developments
 - 6 are market rate or private developments
- Rents for independent living with services
 - \$1,450-\$2,140/mo. in South Scottsdale
 - \$1,400-\$4,800/mo. in North Scottsdale
- Occupancy rates = low 90s%+

Senior Housing Considerations

People tend to live in existing SF homes as long as possible
Average age much older than entry level age - 75 yrs vs. 55/62 yrs.
Must anticipate aging in place
Demand must draw from regional population
Mid-market is more moving up from older apartments than moving down from single-family homes
Difficult to keep operating costs in check
Hard to obtain financing because of failures nationally
Senior center is a plus if it provides services

Senior Housing Market Conclusions

- Good demographic profile
- Mid-market opportunity, but difficult to control operating costs and gain financing
- Opportunities -
 - Age-restricted MF housing with limited services (services supplied by senior ctr.)
 - Low-moderate senior housing

Other Potential Uses

- Market rate multi-family housing
- Small lot single-family starter homes, townhouses, or move-down homes
- Family fitness clubs

Financial Scenarios

Scenario 1

- Senior Center
 - Stagebrush Theater
 - Retail/Restaurant
 - Commercial Office
 - Medical Office
-
- Multigen. Center/Non-Profits

Scenario 2

- Senior Center
 - Stagebrush Theater
 - Retail/Restaurant
 - Commercial Office
 - Medical Office
-
- Multigen. Center/Non-Profits

Financial Considerations

- Land value per s.f. of housing & commercial less than City's costs & most recent appraised value
- Developments must achieve > current market rents for older space
- Estimates assume non-profits pay full value for land and space
- Estimates assume some 3-story senior housing and 2-story office/retail, some over parking
- All uses plausible, but risky

Considering the various uses would pay market value for the property, the estimated consolidated value including land value generated by commercial, residential, non-profit, multigenerational use, and land cost contribution from the senior center would be approximately \$3-3.5 million or approximately 61-62% of the total cost incurred to date. If the City negotiated with non-profits in exchange for public benefits (estimating 50% land reduction cost), the value would be from \$2 - 2.5 million or 45-55%. He noted that the percentages assume that the high end of the office component could be built and the rental would be at the high end of the market range for the area.

Sources of land value are estimated at: 29% from senior center, 23-27% from housing, 20% from multi-generational center

Jay Hicks continued the presentation. Mr. Hicks explained that there a number of good uses for the site but unfortunately, there are too many for the size of the parcel. He stated that the property could be considered as two parcels: Parcel A as the municipal uses (senior center and Stagebrush Theater) and Parcel B, which would represent all the other non-municipal uses.

Municipal Uses

Senior Center
Stagebrush Theater

Housing Component aimed at senior housing

Assisted Living
Independent Living with services
Independent Living without services
Condominiums

There are two areas where medical offices could be developed independently. The buildings would be two-story with parking underneath.

The office component would entail the restaurant, a combination of neighborhood services, and office. Non-profit uses would be located in this component of the project.

Finally, the multigenerational use would serve the entire site.

Committed Uses, 4.3 Acres

- Senior Center
- Citizen Service Center
- Police Beat Office
- Stagebrush Community Theater

Uncommitted Uses, 8.8 Acres

Potential Uses Include:

- Restaurant – 5,000 SqFt
- Neighborhood Retail/Office – 10,000 – 17,000 SqFt
- Multigenerational Activity Center – 20,000 SqFt
- Senior Housing – 100,000 SqFt (100 units)
- Charter School – 35,000 SqFt
- Non-Profit Uses – 5,000 – 20,000 SqFt
- Non-Profit Headquarters – 50,000 SqFt

Bill Anderson resumed the presentation.

1) City As Master Developer - Conveys Lots to Users

Advantages:

- Control
- Coordination
- Flexibility
- City cost of funds
- Long-Term View

1) City As Master Developer - Conveys Lots to Users

Disadvantages:

- Expertise
- Politics
- Time Frame
- Must anticipate private needs
- Risk of Land Ownership

2) City Retains Fee Developer - Conveys Lots to Private Users

Advantages:

- Expertise
- Control through contracts
- Coordination
- Flexibility
- City cost of funds
- Long-Term View

Disadvantages:

- Extra cost
- Contract coordination
- Must anticipate private needs
- Risk of Land Ownership

3) Convey to Private Master Developer - Retain Lots for Public Use

Advantages:

- Expertise
- Private needs met
- Control through deed, agreements, & permits
- Coordination
- Expediency
- Use Private Capital
- Less Long-Term Risk

Disadvantages:

- Enough Incentive?
- Less Control
- Less Obligation to Community
- Less public flexibility

4) Subdivide - Public Use Lot & Private Lots With CC&Rs

Advantages:

- Expertise
- Private Needs Met
- Control through deed, agreements, & permits
- Expediency
- Use Public & Private Capital
- Avoids Developer Fee for City Uses

Disadvantages:

- Must anticipate Coordination Issues
- Timing of Development
- Indirect Control
- Less Public Flexibility

Disposition Recommendation

- City Prepares Framework Plan for RFP
- Subdivide -
 - City retains public lot “A”
 - City conveys non-public lots (“B” & “C”, and “D”) through RFP process
- Back-up Strategy -
 - City retains fee developer & conveys pad sites through RFP process

SELL

Advantages:

- Cash Upfront
- Expediency
- Lower Risk
- Recycle Funds
- Control through deeds, agreements, & permits

Disadvantages:

- Near Term Value Low
- Forfeits Upside Potential
- Less control over time
- Disposes of possible long-term assets
- Forfeits long-term cash flow

LEASE

Advantages:

- Upside Potential
- Retain Assets, Long-Term
- Flexible terms to fit project risk
- Control through lease terms, permits
- Flexibility to Sell Lease
- Return on lease > City's cost of funds

Disadvantages:

- Opportunity cost of cash over time
- Lease management responsibilities & costs
- May reduce developer interest
- More difficult to finance
- More risk in outcome
- Does not work as well with For Sale Housing

Sell vs. Lease Recommendation

- Lease property for long-term, but entertain purchase offers in RFP

Summary Recommendations

- 1) Entertain broad range of mixed-uses on non-public parcels - let responses reflect market, but recommend desired uses
 - Establish City Policy to Determine Non-Profit Participation
 - City Prepares Framework Plan and Subdivides property
 - RFP Non-City Parcels
 - Allow some 3-story to enhance leasable area & value
 - Specify evaluation criteria in RFP, including public purpose, design & price offered for land
 - Lease property but entertain purchase proposals
 - Convey parcels with CC&Rs

Deputy City Manager Ed Gawf summarized the presentation and outlined tonight's request.

Tonight's Request

- Discuss and Provide staff direction on key development issues necessary to prepare RFP:
 - Acceptable Development/Disposition Strategies
 - Any Land Use Restrictions
 - Acceptable Return on Investment
- Authorize funding of Phase III of the Master-Planning Contract with EDAW in the amount of \$65,000 to provide Master Site Plan and Design Guidelines for both Developer RFP and Senior Center.

Councilman Littlefield questioned how the estimated rate of return in the presentation was calculated. Mr. Anderson explained that the figure was based on a sale assumption. In present value terms, the percentage may or may not be reduced by a lease depending on the terms of the lease.

Councilman Littlefield clarified that in order to reach a 60% rate of return, the City must sell approximately 8.8 acres that is not committed to municipal uses. Mr. Anderson confirmed that the estimate incorporates all costs including the master planning. The land value would be the value the

developer would consider for the land given the total costs required to create the parcels for the various uses. He explained that anyone bidding on the land would take into account the costs to improve the property to bring it to market, property restrictions, and the rents that could be generated. Mr. Anderson confirmed that there wouldn't be a significant difference in the rate of return for the City if the City master plans the parcel or sells the 8.8 acres.

Vice Mayor Ortega explained that the site plan as developed indicates that the alley would be retained. He stated that the previous Smitty's building was located 25' from the back of the lot and was 24' high. The current site plan reflects neighbor's concerns and calls for blocking out the alley which would extend at least 16-18' with buildings approximately 100' feet beyond that. He noted that the public outreach efforts were a success with approximately 85-90% of the attendees being senior citizens.

Mr. Gawf agreed that part of the framework plan includes setbacks.

Councilman O'Hearn clarified that the return on investment is actually a percentage of taxpayer monies that would be recaptured by the project.

Councilwoman Lukas pointed out that the City has not yet expended \$5 million on the site. Mr. Gawf agreed that the total expenditure to date is slightly less than \$5 million.

Vice Mayor Ortega pointed out that the project could have a great redeeming quality for the community. He noted that there is a lot of value given back by seniors in the community.

Mayor Manross opened public testimony.

Lyle Wurtz, 6510 E. Palm Lane, questioned what would happen if the project became a catalyst to recovery in the southern part of the City. He stated his belief that the City has been a major culprit in aiding the finalization of the deterioration of the area. He pointed out that the Smitty's project is very important to the southern part of the City. He expressed concern about the continued decline of the area. He also expressed concern regarding the surveys that were conducted for the project and wondered if they adequately reflect the neighbor's wishes. He questioned the City's definition of senior housing and what restrictions would be placed on the residents. He wondered if non-Scottsdale residents would be able to move into the housing. He explained that he doesn't want to see low-cost, subsidized housing on the site.

Darlene Petersen, 7327 E. Wilshire Drive, expressed her opinion that the public outreach was good; however, Council is making a big mistake unless they zero in on the senior center. She felt the center should be three times bigger than the current center. She urged Council not to sell any of the property since it would limit the possibility of expansion at a later time. She predicted that a large number of seniors would be utilizing the center. She stated her belief that the City isn't allowing enough parking on the site.

Jeff Battle, 7489 E. Windrose Drive, spoke on behalf of the Scottsdale Foundation of the Handicapped. He stated that the City and the organization have enjoyed a productive partnership since 1973. He noted that the City's assistance over the years has clearly strengthened the organization's ability to provide services to citizens of Scottsdale. He stated that the organization has outgrown its current location and underscored the unique opportunity the development project presents to further strengthen their efforts to provide much needed services.

Mayor Manross closed public testimony.

In response to a request from Mayor Manross, Mr. Gawf explained that the first topic for direction would be regarding the disposition strategy. He reminded Council that staff's proposal for the master plan approach would be to outline the lease options with the City keeping an open mind regarding the possible sale of the parcels in the RFP. The RFP would also outline how "Parcel B" would be developed as a single package with the uses determined by Council. He summarized that Council should direct staff whether to proceed with the RFP process and look at an RFP on Parcel B as the non-municipal parcel.

Councilman Littlefield explained that the City purchased the parcel because the City was afraid that left to its own devices, it would be a problem for the area. He noted that he attended one of the public outreach sessions along with Councilwoman Lukas and Vice Mayor Ortega. He felt it was clear that there is no consensus on what the citizens want developed on the parcel. He stated that there are different groups in the community that want different uses.

He expressed his belief that the fact that the City is not a good developer should be kept in mind when considering the development of the site. He stated that the senior center and Stagebrush Theater are committed uses. He felt that the site would be a good location for the police and community service center. He explained his opinion that the intelligent thing to do with the remainder of the property to maximum the City's return on investment is to sell the 8.8 acres. He felt the City should not spend the \$65,000 for the engineering study or put out an RFP for the master plan since it would increase costs and delay the project.

Councilman Ecton stated his opinion that the master plan site with the RFP would be appropriate (point number 3 under disposition). He agreed that it is time to move forward and that the City is not a developer. He stated his support of the location of the senior center and the Stagebrush Theater on the site although he pointed out that the City must ensure the senior center is large enough to accommodate future needs. He stated his opposition to housing due to the amount of the space it would use without making the type of contribution to the neighborhood the City is trying to accomplish. It would also limit the amount of commercial space and the overall potential of the property. He suggested that the City put out an RFP to find a developer who is willing to accept the fact that two pieces of the property are dedicated to other uses. He noted that the Council's goal is to maximum the recapture of the City's investment. He felt a development agreement and master plan could easily restrict development to the type of businesses the City desires on the site.

Councilman Silverman asked for confirmation that the City has not yet determined if the senior center will be closed downtown. Mr. Gawf confirmed that no decision has been made.

In response to additional questions from Councilman Silverman, Mr. Gawf explained that the both the senior centers located at Via Linda and in the downtown area are approximately 20,000 sq. feet. The proposed planned center at the former Smitty's site is approximately twice that size. Councilman Silverman stated his opinion that the City should not be the developer; however, noted that the City's name is all over the property. It was purchased with the intent of assisting in the revitalization of the downtown and the City must follow through with the project. He supported the option of bringing a developer in as long as the City could retain some amount of control. He expressed concern about selling the 8.8 acres since it would limit the City's ability to retain control over the development. He explained that he is not convinced that the City needs the housing component since it takes up so much acreage.

Councilwoman Lukas agreed that the site is important and stated her belief that the City did the right thing by purchasing the property. She noted that Council has come to a consensus on the senior center, police office, citizen service center, and theater uses. She stated that Council received a letter requesting that the City investigate the possibility of the development following the "green building" guidelines. She stated

her support of the idea since it isn't more expensive. She stated her support for the option of continuing on with the RFP for the master plan for the entire site. She noted that is important that the City wouldn't be relinquishing all control with this option. She explained that her preference would be to allow a certain range of uses for the RFP and let the market determine what uses would be viable.

Vice Mayor Ortega explained that the demographics of the area support the senior housing component. He stated his belief that the seniors currently have no opportunity to downsize their home. He noted that senior housing is a vital part of the community. He felt that Council must look at the City's general plan before discounting any one category. He suggested that the City must test the market to determine the feasibility of the various uses.

Councilman O'Hearn stated that his philosophy for the site is to let the market forces prevail. He agreed the senior center and Stagebrush Theater are committed uses for the site. The project has a certain level of appeal and does become a master planned site. He felt the City has an opportunity to complete a project that is good for the community and have an appealing overall design. He noted that the various uses being considered all have various levels of feasibility and timing. He stated his belief that Council should restrict the possible land uses by stipulating that the uses must be compatible with family values and the dedicated uses already determined for the site.

Councilman O'Hearn explained his belief that a recapture rate of approximately 60% would be appropriate. He suggested that the restaurant and multigenerational opportunities could be considered with a contingency that the components could be removed if determined that they are not feasible. He stated his belief that the senior housing component isn't critical. He stated his support of conveying the RFP to a private master developer. He explained his belief that the City must eliminate as many obstructions and provide as many incentives as the City possibly can to acquire a developer. He felt the City should be as open minded as possible by allowing an option for the developer to purchase the property if the developer agrees to certain restrictions.

In response to a request from Mayor Manross for confirmation on the direction the majority of Council has provided on the disposition issue, Mr. Gawf repeated the direction for clarification. He felt the Council has given direction to continue on the master plan for the entire site with two requests for proposals (one for given uses, and one for non-municipal uses). The RFP for Parcel B would be prepared as a single entity to test the market.

Vice Mayor Ortega emphasized that the property is mainly zoned C-3. Council is not taking away any of the C-3 uses by master planning the development.

Councilwoman Lukas questioned if a list of desired uses could be included in the RFP process for the developers. Mr. Gawf confirmed that a number of uses could be included. He noted that staff would identify some of the desired uses discussed and the stipulation that the proposed uses must be compatible with the dedicated uses for the site.

Councilwoman Lukas pointed out that senior housing shouldn't be excluded from consideration at this point. She noted that if the housing component proves to be feasible, she would like the Housing Board to participate in the process. Office uses should be considered perhaps even with the non-profit organizations using some of the office space. Restaurant and multigenerational uses should be desired uses. If the YMCA isn't available, she suggested that the City consider space for the Foundation for the Handicapped.

Councilman Silverman explained that he would like to see one perhaps two non-profit organizations on the site.

Councilman Littlefield stated his belief that proceeding with the RFP for the master plan would not be letting the free market work. He felt the action would be making it more difficult to develop the property due to the additional restrictions which will create delay.

In response to a request from Mayor Manross, Mr. Gawf outlined the direction Council provided. Mr. Gawf confirmed that Council identified desired uses for the site to be specified in the RFP; however, are not required. The uses include non-profit, multigenerational, senior housing, restaurant, theater, and office. Council's goal is to recapture +/- 60% of the City's investment.

VICE MAYOR ORTEGA MOVED TO AUTHORIZE THE EXPENDITURE OF \$ 65,000 FROM CENTER NO. PO101 (SMITTY'S PURCHASE ACCOUNT) TO FUND PHASE III OF THE PREVIOUSLY APPROVED ARCHITECTURAL SERVICES CONTRACT NO. 2002-017-COS WITH ED AW INC. FOR THE MASTER-PLANNING, FINANCIAL FEASIBILITY ANALYSIS AND ENGINEERING STUDY. COUNCILWOMAN LUKAS SECONDED THE MOTION WHICH CARRIED 6/1 (R.L.)

19. Action:

Mirage of Scottsdale

- 1. A General Plan amendment from Resorts/Tourism and Commercial to Suburban Neighborhood on 30+/- acres located on the north side of Via Linda, between 132nd and 136th Streets.**
- 2. Adoption of Resolution No. 6090 affirming the above General Plan amendment.**
3-GP-2002
- 3. Rezone from Multi-Family Residential, Hillside District, Environmentally Sensitive Lands (R-5C HD ESL), Central Business District, Hillside District, Environmentally Sensitive Lands (C-2 HD ESL), Single Family Residential, Environmentally Sensitive Lands (R1-43 ESL), and Neighborhood Commercial, Environmentally Sensitive Lands (C-1 ESL) to Townhouse Residential, Environmentally Sensitive Lands (R-4 ESL) on 30+/- acres located on the north side of Via Linda, between 132nd and 136th Streets.**
- 4. Adoption of Ordinance No. 3444 affirming the above rezoning.**
5-ZN-2002

Location:

The north side of Via Linda, between 132nd and 136th Streets. See Attachment # 2B for parcel identification and locations.

Key Considerations:

General Plan

- Replaces existing potential retail/office and resorts/tourism use designations with Suburban Neighborhood designation to allow townhouse dwellings.

Rezoning

- The existing zoning allows a variety of uses including commercial retail, office, single-family residential, and multiple-family residential.
- The proposed zoning allows townhouse residential, which consists of single-family residential dwellings with party walls or walled courtyards.
- This application proposes 134 townhouses on 30 acres.
- The NESPOA neighborhood organization supports this request. At the Planning Commission hearing those individuals who spoke in favor of the proposal indicated their satisfaction with the change from service residential and commercial to town homes.
- The individuals speaking against this proposal at the Planning Commission hearing stated concerns about traffic, density, and impact on views, lighting, and building height, and the change from service residential/commercial to town homes.
- Planning Commission recommend approval of the General Plan amendment and the rezoning as amended, 7-0.

Legal Protest

- The S. Development Co. (Pat Simone) and the Raymond G. Frank and Gail P. Frank Family Trust, owners of adjacent property, have filed a legal protest. Concerns of this opposition include the elimination of the C-2 zoning and its associated commercial services and resulting increase of traffic to/from commercial services located to the west at Frank Lloyd Wright Boulevard.
- Staff has reviewed the legal protest to determine whether it qualifies according to Zoning Ordinance requirements. The legal protest is valid, was filed prior to the Friday before the City Council hearing date, and does meet the 20% minimum adjacency requirement of Section 1.706 Legal Protest by Property Owners. Therefore, the zoning map amendment will need a favorable vote of $\frac{3}{4}$ of all the members of the City Council for an approval and if any of the members of the City Council are unable to vote on the zoning map amendment, the required number of votes for passage is $\frac{3}{4}$ of the remaining membership of the City Council. The required number of votes shall in no event be less than a majority of the full membership of the City Council.

Applicant:

Steven Voss, LVA Urban Design Studio, 7502 E. Main Street, Scottsdale, AZ 85251
480-994-0994

Owner:

Mayo Clinic Foundation, 13400 E Shea Bl, Scottsdale, AZ 85259, 480-301-8700

Staff Contact:

Kira Wauwie, AICP, Project Coordination Manager, 480-312-7061, kwauwie@ci.scottsdale.az.us

Ms. Wauwie introduced items 19 and 20 for discussion since both action items are related.

The project for tonight's consideration is part of a large development proposal consisting of 7 parcels. The character of the area is predominately residential with the Mayo Clinic site to the south.

The currently approved site plan includes a 35' wide area open space adjacent to the existing single-family residences to the north. To the south of the open space is a service drive, which provides access to a commercial retail center. The retail buildings face 136th Street with an area of parking and a restaurant.

The proposed site plan would provide a 95' wide-open area adjacent to the existing single-family residences to the north of the site and a distance of approximately 300' from the north property line to the building, which compares to 60' for the existing approved plan. The parking area would occur prior to the building.

Ms. Wauwie outlined the key considerations for the proposed actions as summarized under the appropriate action item. She noted that the Planning Commission recommended approval of the plan subject to stipulations.

Ms. Wauwie explained that the Summit View Subdivision to the northeast of the site for consideration for rezoning is currently built at a density at 6.08 units per acre compared to the proposed density for this development of 5.88 units per acre. The existing general plan designation would result in potentially more intense uses and would not afford the variety of housing choices compared to the proposal. However, the current general plan designation does contribute to the Scottsdale resort tourism base.

Ms. Wauwie outlined the existing zoning categories on the various parcels and the proposed revisions. In terms of potential development, the comparison of the existing zoning to the proposed zoning would be as follows:

Allowed Under the Existing Zoning

175 hotel rooms or 168 multi-family units

126,000+ sq. ft. of commercial space

8 single-family residential units

Character of development would be comparable to a commercial strip center with a row of in-line commercial spaces

Allowed Under the Proposed Zoning

144 units of town homes with an overall development plan concept to address height, open spaces, etc.

Ms. Wauwie estimated that the change would decrease the number of trips generated by 7,000+ per day. For Via Linda, the two-lane configuration would continue with a potential expansion to four lanes if warranted. The change of zoning districts removes the ability to develop commercial and single family uses. In its place, it would provide for additional choices of housing for the area that is currently predominately single-family residential.

Ms. Wauwie pointed out that there was a legal protest received regarding the site. Concerns expressed in the protest included the elimination of commercial uses in the area and the traffic impact to existing commercial services located in the area. The impact of the legal protest is that a

super majority vote of Council would be needed to approve the zoning and general plan amendment.

John Berry spoke briefly as the representative for the applicant. He explained that the Mayo Clinic purchased 140 acres in Scottsdale 17 years ago. In anticipation of expansion, the Mayo Clinic purchased an additional 90 acres. However, in 1995, the hospital was built in Phoenix due to the proximity of the freeway system. As a result, the Mayo Clinic does not require the 90 acres involved in this action before Council. The clinic wanted a master planner that believed in quality development rather than selling the property in sections. The action for consideration tonight is the result of the clinic's desire for quality.

He noted that this case is actually a reduction in the number of homes for the area and a 75% reduction of the traffic that would be generated from development under the current zoning. Out of the 90 acres, 20 are being down zoned, 10 acres are a subject of an up zoning with 60 acres remaining the same in terms of the proposed zoning.

Mr. Berry displayed a proposed site plan and compared it to the uses that are currently allowed under the current zoning. He noted the various support received from the surrounding properties and pointed out the locations of the two parcels owned by the individuals in opposition to the requested revision who filed the legal protest.

Mayor Manross opened public testimony.

Bryan McSweeney, 13400 E. Shea Blvd., spoke on behalf of the Mayo Clinic. He noted that he is very pleased with the project. He stated his belief that the project is a good transitional land use. The Mayo Clinic wanted to do what was right for the campus and the neighborhood. He stressed Mayo Clinic's support of the proposed project and his appreciation to the developer for working so closely with the surrounding neighbors.

Dennis Rodrigues, 13997 E. Kalil Drive, spoke in favor of the proposed project. He encouraged Council's support for the project.

Bruce Meyer, 13567 E. Jenan Drive, president of the Villa Montauo Homeowner's Association, spoke in support of the proposed development. He explained that although he originally was opposed the development plan, he now supports it due to the consideration displayed by the developer for the neighborhood. The developer provided adequate access to the park and reduced the height of the project along with the density.

Ervin Galecki, 13563 E. Cortez Drive, spoke as the president of Summit View Home Owner's Association. He explained that the association worked very well with the developer to address their concerns. He stated that he is pleased with the plan and the open spaces designation. He stated his opposition to any type of commercial development on the property.

Timothy J. Paris, 13126 E. Jenan Drive, spoke as a representative of the Desert Orchid Homeowner's Association in support of the proposed project. He felt the proposal is far less intensive than what is currently permitted under the zoning. He noted that the area is primarily residential and the proposal is in character with the area. He expressed strong support from the association for the project.

Mayor Manross closed public testimony. An additional 29 comment cards were received in favor of the proposed action from citizens who either did not wish to speak or were not present during the public testimony portion of the item.

City Attorney Pennartz reminded Council that the legal protest applies only to the zoning case. It triggers the requirement for a $\frac{3}{4}$ Council vote for approval which equates to 6 votes which must be received from Council in support of the case for approval. The other considerations would require 4 votes for approval.

COUNCILMAN ECTON MOVED TO APPROVE THE GENERAL PLAN AMENDMENT FROM RESORTS/TOURISM AND COMMERCIAL TO SUBURBAN NEIGHBORHOOD ON 30+/- ACRES LOCATED ON THE NORTH SIDE OF VIA LINDA, BETWEEN 132ND AND 136TH STREETS AND ADOPT RESOLUTION NO. 6090 AFFIRMING THE ABOVE GENERAL PLAN AMENDMENT. (3-GP-2002) COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

COUNCILWOMAN LUKAS MOVED TO APPROVE THE REZONING FROM MULTI-FAMILY RESIDENTIAL, HILLSIDE DISTRICT, ENVIRONMENTALLY SENSITIVE LANDS (R-5C HD ESL), CENTRAL BUSINESS DISTRICT, HILLSIDE DISTRICT, ENVIRONMENTALLY SENSITIVE LANDS (C-2 HD ESL), SINGLE FAMILY RESIDENTIAL, ENVIRONMENTALLY SENSITIVE LANDS (R1-43 ESL), AND NEIGHBORHOOD COMMERCIAL, ENVIRONMENTALLY SENSITIVE LANDS (C-1 ESL) TO TOWNHOUSE RESIDENTIAL, ENVIRONMENTALLY SENSITIVE LANDS (R-4 ESL) ON 30+/- ACRES LOCATED ON THE NORTH SIDE OF VIA LINDA, BETWEEN 132ND AND 136TH STREETS AND ADOPT ORDINANCE NO. 3444 AFFIRMING THE ABOVE REZONING.(5-ZN-2002) COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

20. Action:

Mirage of Scottsdale

Request to approve

- 1. An amendment to Parcel F of a site plan approved in case 30-ZN-1991, on 5± acres located at the northwest corner of Via Linda and 136th Street, on property with Neighborhood Commercial, Environmentally Sensitive Lands (C-1 ESL) zoning.**
 - 2. Adopt Ordinance No. 3445 affirming the above rezoning.**
- 30-ZN-1991#2**

Location: Northeast corner of Via Linda & 136th Street.

Key Considerations:

- The proposal increases the distance between future buildings on the site and existing residents on adjacent parcels.
- The views from the residences are preserved.
- Planning Commission recommends approval, 7-0.

Applicant:

Steven Voss, LVA Urban Design Studio, 7502 E Main St, Scottsdale, AZ 85251
480-994-0994

Owner: Mayo Clinic Foundation, 13400 E. Shea Boulevard, Scottsdale, AZ 85259

Staff Contact:

Kira Wauwie, Project Coordination Manager, 480-312-7061, E-mail: kwauwie@ci.scottsdale.az.us

Please refer to the discussion noted under item 19 since items 19 and 20 were related and presented for discussion together.

COUNCILWOMAN LUKAS MOVED TO APPROVE THE AMENDMENT TO PARCEL F OF A SITE PLAN APPROVED IN CASE 30-ZN-1991, ON 5± ACRES LOCATED AT THE NORTHWEST CORNER OF VIA LINDA AND 136TH STREET, ON PROPERTY WITH NEIGHBORHOOD COMMERCIAL, ENVIRONMENTALLY SENSITIVE LANDS (C-1 ESL) ZONING AND ADOPT ORDINANCE NO. 3445 AFFIRMING THE ABOVE REZONING. (30-ZN-1991#2) COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0

21. Action:

Hotel Valley Ho Historic Property Overlay

Consider a request to rezone from Highway Commercial (C-3) to Highway Commercial, Historic Property (C-3 HP) on an 8.86± acre parcel located at 6850 E. Main Street, and to place the property on the Scottsdale Historic Register, and consider adopting Ordinance No. 3453 affirming the rezoning.
7-ZN-2002

Purpose:

This request comes from the City of Scottsdale. This application was initiated by the Historic Preservation Commission (HPC) on March 14, 2002. Don Meserve in the Preservation Division is managing this application on behalf of the Historic Preservation Commission. Westroc is the owner of this property.

Location: 6850 E. Main Street

Key Considerations:

- The owner supports the rezoning request.
- The Historic Preservation Commission voted unanimously on 5/9/02 to recommend approval of the HP overlay zoning to the City Council and identified this property in the recent downtown survey as historically significant.
- The Hotel Valley Ho is historically significant in multiple criteria for designation including its association with Scottsdale's development as a top rated arts colony and tourist destination, for its modern organic architectural style and for being the first year round resort to open up in the town employing "southwestern" architecture.

- The Hotel Valley Ho is the last resort remaining of the postwar boom that put Scottsdale on the map as a tourist destination and it has retained a high level of integrity in all aspects.
- No development or change in use or the underlying zoning is proposed in this City-initiated Historic Property overlay zoning case.
- The Planning Commission voted 6-0 on the regular agenda to forward the case to the City Council with a recommendation for approval.

Applicant:

Don Meserve, City of Scottsdale, 7447 E. Indian School Rd Ste 105, Scottsdale, AZ 85251
480-312-2523

Owner:

Scott Lyon, Managing Member, Westroc Real Estate Development, 7305 East Greenway Road, Scottsdale, Arizona 85260, 480-367-6222

Staff Contact:

Don Meserve, AICP, Preservation Planner, 480-312-2523, E-mail: dmeserve@ci.scottsdale.az.us

Debbie Able presented information on items 21, 22, and 23 in one presentation. Ms. Able's presentation and comments are summarized below.

**Overview of Three
HP Zoning Cases**

Request to place HP overlay zoning on 3 downtown properties and to place properties on the Scottsdale Historic Register

Reasons for Historic Preservation Program

- ◆ Create Sense of Pride in Our heritage
- ◆ Prevent Loss of Valuable Historic Resources
- ◆ Recognize Distinctive Areas
- ◆ Create Economic Benefits by Enhancing Tourism and Increasing Property Values

Role of HPC (Appointed 7/97)

- ◆ Historic Preservation Commission (HPC) develops and promotes local historic preservation:
 - Conducts surveys of resources
 - Applies eligibility criteria
 - Initiates Historic Property (HP) zoning
 - Historic Preservation Officer (HPO) prepares reports on significance/integrity
 - Makes recommendations to Council

Criteria for Eligibility

- ◆ Associated with significant event, or
- ◆ Associated with significant person, or
- ◆ Work of a master, possesses high artistic value, or special type of construction
- ◆ Yields, or could yield, important information on prehistory, and
- ◆ Associated with important time period in Scottsdale's settlement (themes), and
- ◆ Maintained integrity in: location, design, setting, materials, workmanship, feeling and association

Benefit/Impact of HP Zoning

- ◆ Added to Scottsdale Historic Register
- ◆ Recognize Existing Buildings – No development proposed
- ◆ Properties become eligible for any incentives for properties listed on register
- ◆ Historic Preservation Commission reviews changes in façade; not Development Review Board
 - Design Guidelines prepared for property
- ◆ Potential 1 Year stay on demolition

Theme Based Designations

- ◆ Settlement of Environs of Scottsdale
- ◆ Early Town Buildings – 8 on register
- ◆ Scottsdale's Development as an Arts Colony and Tourist Destination
 - 2 on register, 3 proposed
- ◆ Contribution of Native American and Hispanic Communities
- ◆ Influential Role of Women Civic Leaders
- ◆ Post WWII Neighborhood Development
- ◆ Scottsdale as a Dynamic & Innovative City

Key Considerations

- ◆ Properties determined eligible for register by HPC and HPO
- ◆ Important to Scottsdale's development as arts colony and tourist destination (theme)
- ◆ Owners support HP designation
- ◆ HPC initiated and unanimously supports designations

7-ZN-2002 Hotel Valley Ho Historic Property Overlay Request

- ◆ Rezoning
 - 6850 E. Main Street from Highway Commercial (C-3) to Highway Commercial, Historic Property (C-3 HP) on 8.86 acres
- ◆ Initiated by HPC - March 14, 2002

Key Considerations

- ◆ Hotel Valley Ho was identified through the downtown survey as one of the most significant postwar resort properties
- ◆ Hotel Valley Ho is both historically and architecturally significant with a high level of integrity
- ◆ Hotel Valley Ho is last resort from postwar boom and important to Scottsdale's development as a tourist destination
- ◆ Existing buildings recognized - No change in use proposed by HP overlay zoning

Historic Significance/Integrity

- ◆ Associated with Scottsdale's development as a top rated arts colony and tourist destination; celebrity guests
- ◆ "Southwestern " architecture; horizontal emphasis, organic style, distinct precast concrete panels and details
- ◆ High level of integrity in all aspects: location, setting, materials, design, workmanship, feeling and association
- ◆ Best intact remaining 50's resort – Alan Hess

7-ZN-2002

Recommendations

- ◆ Historic Preservation Officer recommends approval of HP zoning and placing on Scottsdale Historic Register
 - Due to significance in multiple criteria for designation and its important contribution to Scottsdale's development as an arts and tourist destination.
- ◆ Historic Preservation Commission unanimously recommends approval, 5/9/02
- ◆ Planning Commission unanimously recommends approval, 5/29/02

Mayor Manross opened public testimony.

Scott Lyon, 7305 E. Greenway Road, spoke as the managing member of Westroc Hospitality. He noted that he has been working behind the scenes evaluating the property. He noted that his company shared the same enthusiasm for the property as the Historic Preservation Commission. He stated that the company is working very closely with the commission to address all the needs of the property.

Don Hadder, 7433 E. Edgemont, spoke as a representative of the Scottsdale Historical Society. The Historical Society has reviewed the properties. Based on the fact that there are relatively few buildings from this period of time that represent this stage of history in the City, the organization endorses the historic designation of the buildings.

Cathy Johnson, 8655 E. Diamond, spoke as the Chairman of the Historic Preservation Commission. She thanked Council for their consideration of the designation for the buildings. She noted that the commission is proud of the historic buildings and urged Council to approve their historic designation.

Mayor Manross closed public testimony. Five additional cards were received from citizens in support of items 21, 22, and 23 who did not wish to speak.

Mayor Manross expressed her belief that Council should move forward with the designations. She thanked the staff and commission for their work.

Councilman Ecton noted that he visited all three sites this past week. He called special attention to the Valley Ho property since it was his belief it is special.

Councilwoman Lukas agreed that the Valley Ho property is very special and has potential to win national recognition. She noted that the three properties being considered tonight for the historic designation are great examples of what the historic preservation program is doing.

Vice Mayor Ortega agreed that the property is great because of the small shops that are on the site, the character, and colors that go with it.

COUNCILMAN ECTON MOVED TO APPROVE THE REZONING FROM HIGHWAY COMMERCIAL (C-3) TO HIGHWAY COMMERCIAL, HISTORIC PROPERTY (C-3 HP) ON AN 8.86± ACRE PARCEL LOCATED AT 6850 E. MAIN STREET, AND TO PLACE THE PROPERTY ON THE SCOTTSDALE HISTORIC REGISTER, AND ADOPT ORDINANCE NO. 3453 AFFIRMING THE REZONING. (7-ZN-2002) COUNCILMAN SILVERMAN SECONDED THE MOTION WHICH CARRIED 7/0.

22. Action:

Craftsman Court Historic Property Overlay

**Consider a request to rezone from Central Business District (C-2) to Central Business District, Historic Property (C-2 HP) on a .82 ± acre parcel located at 7121-7141 E. 5th Avenue and to place the property on the Scottsdale Historic Register, and consider adopting Ordinance No. 3454 affirming the rezoning.
8-ZN-2002**

Purpose:

This request comes from the City of Scottsdale. This application was initiated by the Historic Preservation Commission on March 14 of this year. Don Meserve in the Preservation Division is managing this application on behalf of the Historic Preservation Commission. Sunbrella Properties, Inc. is the owner of this property.

Location: 7121 – 7141 E. Fifth Avenue

Key Considerations:

- The owner supports the rezoning request.
- The Historic Preservation Commission voted unanimously on 5/9/02 to recommend approval of the HP overlay zoning and identified this property in the recent downtown survey as historically significant.
- Public comments at open houses and public hearings were very favorable.
- No development and no change in use or the underlying zoning is proposed in this City-initiated Historic Property overlay zoning request.
- The Planning Commission voted 6-0 on the regular agenda to forward this case to the City Council with a recommendation for approval.

Applicant:

Don Meserve, City of Scottsdale, 7447 E. Indian School Rd Ste 105, Scottsdale, AZ 85251
480-312-2523

Owner: Sunbrella Properties, Inc., 6925 E 5th Ave, Scottsdale, AZ 85251, 480-945-6794

Staff Contact:

Don Meserve, AICP, Preservation Planner, 480-312-2523, E-mail: dmeserve@ci.scottsdale.az.us

Staff's presentation for this item has been broken out from the combined presentation and summarized below. For the associated discussion, please review the discussion under item 21 since items 21, 22, and 23 were presented and discussed at one time.

**8-ZN-2002
Craftsman Court
Historic Property Overlay**

Request

- ◆ Rezoning
 - 7121-7141 E. 5th Avenue from Central Business District (C-2) to Central Business District, Historic Property (C-2 HP) on .82 acres
- ◆ Initiated by HPC
 - March 14, 2002

Key Considerations

- ◆ Craftsman Court was identified through the downtown survey of as one of the most significant postwar retail properties
- ◆ Property is very important for its contribution to Scottsdale's development as an arts colony
- ◆ Existing buildings recognized - No change in use proposed by HP overlay zoning

Historic Significance/Integrity

- ◆ Associated with a number of prominent artists
- ◆ Contributed to Scottsdale's development as a top rated arts colony and tourist destination
- ◆ Excellent example of fifties retail where shops/studios combined with artists/craftsman
- ◆ Contemporary architecture reflects growth of Scottsdale and local artists
 - High degree of integrity of physical features; original setting retained; buildings clustered around courtyards; architecturally significant

8-ZN-2002

Recommendations

- ◆ Historic Preservation Officer recommends approval of HP zoning and placing on Scottsdale Historic Register
 - Due to significance in multiple criteria for designation and its important contribution to Scottsdale's development as an arts colony and tourist destination.
- ◆ Historic Preservation Commission unanimously recommends approval, 5/9/02
- ◆ Planning Commission unanimously recommends approval, 5/29/02

Vice Mayor Ortega explained that the Craftsman Court property underwent renovations some time around 1992. At that time, screening was placed on the roof of the building. He explained that the grating that was installed during the renovation does not properly screen the units from

view. Ms. Able explained that it was determined that the renovations did not diminish the building integrity.

Vice Mayor Ortega agreed that the material doesn't detract from the building; however, it does not adequately screen the air conditioning units. He expressed concern about approving the action in front of Council without addressing the screening issue. Ms. Able explained that this designation would not freeze the building in time. She noted that the commission expects that there will continue to be changes made to the building. As part of the development of a preservation plan for the property, the commission will be reviewing its code requirements. She noted that the commission could work with the owners to develop a plan to address the issue in such a way that it may correspond more closely with the character of the building.

In response to questions from Vice Mayor Ortega, Attorney Pennartz explained that the issue of the screening could be addressed in another manner even if the historic designation is approved tonight. Staff could work up a set of guidelines for any future renovation on the property. He felt it would be an appropriate place to address this issue

COUNCILWOMAN LUKAS MOVED TO APPROVE THE REZONING FROM CENTRAL BUSINESS DISTRICT (C-2) TO CENTRAL BUSINESS DISTRICT, HISTORIC PROPERTY (C-2 HP) ON A .82 ± ACRE PARCEL LOCATED AT 7121-7141 E. 5TH AVENUE AND TO PLACE THE PROPERTY ON THE SCOTTSDALE HISTORIC REGISTER, AND ADOPT ORDINANCE NO. 3454 AFFIRMING THE REZONING. (8-ZN-2002). VICE MAYOR ORTEGA SECONDED THE MOTION WHICH CARRIED 7/0.

23. Action:

Adobe Apartments Historic Property Overlay

Consider a request to rezone from Central Business District (C-2) to Central Business District, Historic Property (C-2 HP) on a 12,504 square foot parcel located at 7037-7041 E. 1st Avenue and to place the property on the Scottsdale Historic Register, and consider adopting Ordinance No. 3455 affirming the rezoning. 9-ZN-2002

Purpose:

This request comes from the City of Scottsdale. This application was initiated by the Historic Preservation Commission on March 14 of this year. Don Meserve in the Preservation Division is managing this application on behalf of the Historic Preservation Commission. Jimmy Eriksson is the owner of this property.

Location: 7037 – 7041 E. 1st Ave.

Key Considerations:

- The owner supports the rezoning request.
- The Historic Preservation Commission voted unanimously on 5/9/02 to recommend approval of the HP overlay zoning and identified this property in a recent downtown survey as historically significant.
- Public comments at open houses were very favorable.

- No development and no change in use or the underlying zoning is proposed in this City-initiated Historic Property overlay zoning request.
- The Planning Commission voted 6-0 on the regular agenda to forward this case to City Council with a recommendation for approval.

Applicant:

Don Meserve, City of Scottsdale, 7447 E. Indian School Rd Ste 105, Scottsdale, AZ 85251
480-312-2523

Owner: Jimmy Eriksson, 7041 E First Ave, Scottsdale, AZ 85251, 941-1414

Staff Contact:

Don Meserve, AICP, Preservation Planner, 480-3112-2523, dmeserve@ci.scottsdale.az.us

Staff's presentation for this item has been broken out from the combined presentation and summarized below. For the associated discussion, please review the discussion under item 21 since items 21, 22, and 23 were presented and discussed at one time.

**9-ZN-2002
Adobe Apartments
Historic Property Overlay**

Request

◆ Rezoning

- From Central Business District (C-2) to Central Business District, Historic Property (C-2 HP) on .29 acres at 7037-7041 E. 1st Avenue

◆ Initiated by HPC

- March 14, 2002

Key Considerations

- ◆ Adobe Apartments was identified in the downtown survey as an important example of postwar vernacular buildings in the downtown
- ◆ Property is important as an example of early lodging built to accommodate seasonal visitors in the postwar period
- ◆ Existing buildings recognized - No change in use proposed by HP overlay zoning

Historic Significance/Integrity

- ◆ Representative of Scottsdale's postwar development related to tourism
- ◆ Vernacular western styled cluster of buildings representative of automobile oriented architecture - distinctive adobe construction
- ◆ Architecture embodies Complex maintains a high degree of integrity in all aspects: location, design, setting, materials, workmanship, feeling and association

9-ZN-2002

Recommendations

- ◆ Historic Preservation Officer recommends approval of HP zoning and placing on Scottsdale Historic Register
 - Due to significance in the criteria for designation and its important contribution to Scottsdale's development as an arts colony and tourist destination.
- ◆ Historic Preservation Commission unanimously recommends approval, 5/9/02
- ◆ Planning Commission unanimously recommends approval, 5/29/02

COUNCILWOMAN LUKAS MOVED TO APPROVE THE REZONING FROM CENTRAL BUSINESS DISTRICT (C-2) TO CENTRAL BUSINESS DISTRICT, HISTORIC PROPERTY (C-2 HP) ON A 12,504 SQUARE FOOT PARCEL LOCATED AT 7037-7041 E. 1ST AVENUE AND TO PLACE THE PROPERTY ON THE SCOTTSDALE HISTORIC REGISTER, AND ADOPT ORDINANCE NO. 3455 AFFIRMING THE REZONING. (9-ZN-2002) COUNCILMAN ECTON SECONDED THE MOTION WHICH CARRIED 7/0.

24. Action:

(At the request of Councilman Littlefield.)

Consider referral of ballot measures to the voters for a charter amendment and city code amendments for formation of a municipal fire department, and

Adopt Ordinance No. 3460 submitting to the qualified electors of the city a charter amendment, adding Sec. 6 to Art. 4 of the Charter, requiring the creation of a municipal fire department, and

Adopt, subject to voter approval, Ordinance No. 3461, amending Chapter 36 of the Scottsdale Revised Code by adding Sections 36-1, 36-2 and 36-3, relating to formation of a municipal fire department, and

Adopt Resolution No. 6127 calling a Special Election on the ballot measures for November 5, 2002 and referring Ordinance No. 3460 (charter amendment) and Ordinance No. 3461 (city code amendments) to the voters for adoption or rejection, and

Approve a budget transfer from the General Fund Contingency Account (No. 100-99501-52890) to the City Clerk's Office Elections Expense Account (No. 100-01035-52190) in the amount of \$50,000.00 for the estimated cost of the Special Election.

Purpose:

This item was agendaized at the request of Councilman Littlefield, to provide the Mayor and Council the opportunity to consider referring the charter amendment and City Code provisions, proposed by Initiative Petitions IT-02-02 and IT-02-03 for establishment of a municipal fire department, to the ballot for voter consideration and adoption or rejection at a special election to be held on November 5, 2002.

Key Considerations:

- Initiative petitions (IT-02-02 and IT-02-03) are being circulated to place before the voters two ballot measures proposing a charter amendment and proposed City Code provisions, requiring and providing for establishment of a municipal fire department. The initiatives require 16,531 valid signatures, each, to qualify for the ballot.
- Absent the City Council calling a special election, either or both of the initiative measures that qualify for the ballot would be placed on the ballot for the City's general election to be held on March 9, 2004.
- For the initiatives to be placed on the ballot for a special City election to be held on November 5, 2002, the initiative petitions would be required to be filed-in by July 4, 2002, and a call of election would need to be adopted by the City Council at a special meeting on or before July 23, 2002. There is the possibility that the total number of valid signatures on the initiative petitions would not have been determined in advance of the special Council meeting and, therefore, that the call of election would have to be passed conditionally.
- State law regarding initiative measures and the Scottsdale Charter provide the City Council with the ability to refer a proposed measure to the voters for adoption or rejection, with or without initiative petitions.

Staff Contacts:

Sonia Robertson, City Clerk, 312-2412, srobertson@ci.scottsdale.az.us
David A. Pennartz, City Attorney, 312-2405, dpennartz@ci.scottsdale.az.us

Attorney Pennartz explained that two initiatives are being circulated in the City in an attempt to qualify two ballot measures. The ballot measures would require the creation of a municipal fire department and provide certain structure and other details for the organization, operation, and staffing of a new fire department. If the initiatives were to qualify for the ballot with the minimum 16,531 signatures each (of Scottsdale register voters), subject to meeting timing requirements, Council might place the measures on the ballot for any one of the upcoming special election dates including November 5, 2002, March 11, 2003, May 20, 2003, September 8, 2003, November 4, 2003, or allow the measures to go to the ballot in Scottsdale's next general election in March 9, 2004.

The decisions of when to file the petitions with the City is in the control of the political committee circulating the petition drive. The time with regard to the November 5, 2002 election would require the petitions to be filed with the City Clerk on or before July 4, 2002. The clerk's office would then process the petitions over a 15 day period excluding weekends and holidays to determine the minimum number of signatures on the petitions. If not, the petition drive would fail. If there were the minimum number of signatures on the petitions, there is a signature verification process that is initiated. It starts with a random 5% sample that is forwarded to the County elections department. He noted that the signature process would take at least until late July to be completed. In the meantime, on July 8th, the City Clerk would be required to notify the County Elections Office that the City would have a ballot question upcoming. A special election would have to be called by July 23rd and final ballot language would have to be sent to the County.

Tonight's agenda item represents a separate track from the two initiatives. State law and the City charter allow the Council to self refer ballot measures to the voters without a petition drive or without verifying that a sufficient number of signatures were received if a petition is submitted. At Councilman Littlefield's request, this item has been prepared for Council's consideration to include all required action items (2 ordinances, a resolution, and budget transfer to the Clerk's office). If adopted, it would place the same versions of the Charter amendment and City Code sections proposed by the two initiatives on the November 5, 2002 ballot for approval or rejection by the voters. The Council Action Report also lays out other options that Council would have which would include not taking any action which would allow the initiative process to proceed or referring some ballot measure or measures to the ballot.

Mayor Manross opened public testimony.

Kurt Krumperman, 4141 Granite Reef, spoke as the group president for Rural Metro's Fire operations. He stated that the issue tonight is one of process. So far, Council has been positive and exemplary in implementing a deliberate and studied approach in dealing with the issue of providing for fire services within the City. He urged Council to follow the rules.

John W. Greco, 2843 N. 76th Place, expressed concern regarding the recent consultant's report indicating that Rural Metro does not meet professional standards. Compared with fire departments in the surrounding areas, Rural Metro shows up last. He pointed out that the City continues to stand out due its lack of providing the same benefits for the firefighters as provided to other City employees. He urged Council to stand up and be counted by placing this issue on the ballot.

Rich Worth, 4315 N. 68th Street, noted that he is a committee member on the Committee to Protect Scottsdale and Its Firefighters. He stated that the committee started gathering signatures just two months ago and has accumulated over 40,000 signatures with the two initiatives. The committee plans on handing in approximately 22,000 signatures for each initiative as soon as the signatures are validated and the petitions are copied. He stated his belief that the process Council should follow is to listen to the people.

Kara Worth, 8301 E. San Rafael, Chairperson of the Committee to Protect Scottsdale and Its Firefighters, urged Council to place the issue on the ballot. She felt the people deserve a municipal fire department. With the growth of the City, Rural Metro cannot meet the demands while making their shareholders happy. She asked Council to do the right thing and place the issue on the ballot.

Jake Jacobsen, 5814 E. Hillery Drive, President of the Phoenix Law Enforcement Association, spoke in support of Council adding the issue to the ballot. He stated that for 50 years, the City has had service from a for profit company. He explained that the firefighters are asking for nothing more than to provide adequately staffed fire protection services to the City. He urged Council to place the issue on the ballot. He noted that there are currently no death benefits for the Rural Metro firefighters.

Mayor Manross closed public testimony. An additional 8 cards were received in support of placing the initiative on the ballot from citizens who did not wish to speak.

In response to a request from Mayor Manross, Attorney Pennartz explained that if the initiatives are successful, Council would need to meet and call a special election. He noted that there is a timing issue to process the petitions and verify the signatures. If Council didn't meet in the summer, the next election in which the measure could be added to the ballot would be the March 2003 election.

In response to questions from Vice Mayor Ortega, Attorney Pennartz explained that there are two distinct tracks for placing an initiative on the ballot. The submission of initiative petitions and the verification of

the signatures is one track. If they are submitted by July 4th, the determination of the number of valid signatures would be made by late July or the first part of August. At that point, Council could call a special meeting to place the measure on the ballot. He noted that it is possible for Council to have the signatures verified by July 23rd although it is highly unlikely.

Attorney Pennartz confirmed for Vice Mayor Ortega that none of the jurisdictions he has been involved in have proceeded to place an initiative on the ballot before the final tabulation of the number of signatures were received from the petitions.

Councilman Littlefield explained that this isn't an issue of if the initiative will be on the ballot but when. If the Council takes no action tonight, the likelihood that this measure will be placed on the November 2002 ballot is slim to none. He stated his belief that the measure needs to be on the November ballot.

He noted that when the Fire EMS Committee was created by the previous Council, it was specifically excluded from considering the question of creating a municipal fire department. Nothing the committee is going to do by design would tell the City if the initiative should pass or fail. In fact, he believed the limitation placed on the committee made the committee practically useless.

Councilman Littlefield explained that Council has always had the right to place a measure on the ballot. Actually, he noted that the Council has the right to vote on creating a municipal fire department without putting the issue on the ballot.

COUNCILMAN LITTLEFIELD MOVED TO REFER THE BALLOT MEASURES TO THE VOTERS FOR A CHARTER AMENDMENT AND CITY CODE AMENDMENTS FOR FORMATION OF A MUNICIPAL FIRE DEPARTMENT, ADOPT ORDINANCE NO. 3460 SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY A CHARTER AMENDMENT, ADDING SEC. 6 TO ART. 4 OF THE CHARTER, REQUIRING THE CREATION OF A MUNICIPAL FIRE DEPARTMENT, ADOPT, SUBJECT TO VOTER APPROVAL, ORDINANCE NO. 3461, AMENDING CHAPTER 36 OF THE SCOTTSDALE REVISED CODE BY ADDING SECTIONS 36-1, 36-2 AND 36-3, RELATING TO FORMATION OF A MUNICIPAL FIRE DEPARTMENT, ADOPT RESOLUTION NO. 6127 CALLING A SPECIAL ELECTION ON THE BALLOT MEASURES FOR NOVEMBER 5, 2002 AND REFERRING ORDINANCE NO. 3460 (CHARTER AMENDMENT) AND ORDINANCE NO. 3461 (CITY CODE AMENDMENTS) TO THE VOTERS FOR ADOPTION OR REJECTION, AND APPROVE A BUDGET TRANSFER FROM THE GENERAL FUND CONTINGENCY ACCOUNT (NO. 100-99501-52890) TO THE CITY CLERK'S OFFICE ELECTIONS EXPENSE ACCOUNT (NO. 100-01035-52190) IN THE AMOUNT OF \$50,000.00 FOR THE ESTIMATED COST OF THE SPECIAL ELECTION. THE MOTION DIED FOR LACK OF A SECOND.

Mayor Manross pointed out that the issue of changing the charter to national standards is not specific since it doesn't specifically identify the standards. Councilman Littlefield disagreed and stated his belief that the motion and standards are perfectly clear.

Vice Mayor Ortega explained that Council doesn't control the timing or statutes. He stated his belief that it could complicate the issue by Council voting to proceed ahead of the initiative. He pledged to place the measure on the March 2003 ballot if the appropriate number of signatures are received since it would be cleaner to do so.

Councilman Silverman explained that the issue is all about process. He felt the Council would be setting a precedent without waiting for the signatures to be validated. He stated his belief that the measure will be on the March 2003 ballot.

Councilwoman Lukas agreed with Councilman Silverman. She stated that this is a serious issue since it involves public safety. She noted that no one believes in citizen involvement more than she does. If the signatures are validated, the matter should be placed on the ballot for voters as quickly as possible. If the voters approve the initiative, she explained that she would do everything possible to ensure that the municipal department is created as soon as possible. She pointed out that the Council has recently created a citizen committee which will be meeting for the first time on July 10th. She felt the Council should wait until the committee has a chance to complete their work before taking action. She stated her support for placing the measure on the March 2003 election date if the initiative is successful.

Councilman Ecton explained that the public has a right to place the issue on the ballot. He stated his belief that the Council should not attempt to preempt the public. He stated his willingness to place the initiatives on the ballot as soon as possible once the legal channels are followed. After the numbers are verified, he explained that he would support an agenda item to place the measure on the ballot at the earliest possible time, which most likely would be March 2003.

Councilman O'Hearn pointed out that everyone in the room respects the initiative process. Although it is a citizen's right, there are steps in the process that must be fulfilled. He explained that the item for Council's consideration is a procedural issue. If there were no alternatives, he pointed out that the majority of Council would probably risk setting a precedent; however, there are reasonable alternatives available.

Mayor Manross explained that she also respects the process. She questioned what the hurry is to place the initiative on the ballot. She felt the City should let the process play itself out. The citizen committee will be discussing issues. Once their work is finished, they will forward their recommendations to Council, which will help create good public dialog.

Councilman Littlefield expressed his opinion that placing the measure on the March 2003 ballot isn't the same as placing it on the November 2002 ballot since the November election is a general election. The March election would be a special election and would not draw a large number of voters. He also pointed out that Council has a right to place the measure on the ballot; therefore, Council wouldn't be circumventing the process.

PUBLIC COMMENT - NONE

CITY MANAGER'S REPORT - NONE

MAYOR AND COUNCIL ITEMS - NONE

ADJOURNMENT

With no further business to discuss, Mayor Manross adjourned the meeting at 9:48 P.M.

SUBMITTED BY:

REVIEWED BY:

Ann Eyerly, Council Recorder

Sonia Robertson, City Clerk

C E R T I F I C A T E

I hereby certify that the foregoing Minutes are a true and correct copy of the Minutes of the Regular City Council Meeting of the City Council of Scottsdale, Arizona held on the 1st day of July 2002.

I further certify that the meeting was duly called and held, and that a quorum was present.

DATED this _____ day of July 2002.

SONIA ROBERTSON
City Clerk